

**DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION PROGRAMS  
Menno School District  
Accountability Review - Focus Monitoring Report 2008-2009**

**Team Members:** Mary Borgman and Linda Shirley, Education Specialists, and  
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**Dates of On Site Visit:** January 8, 2009

**Date of Report:** February 4, 2009

**Closed: February 4, 2009**

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**Program monitoring and evaluation.**

In conjunction with its general supervisory responsibility under the Individuals with Disabilities Education Act, Part B, Special Education Programs (SEP) of the Office of Educational Services and Support shall monitor agencies, institutions, and organizations responsible for carrying out special education programs in the state, including any obligations imposed on those agencies, institutions, and organizations. The department shall ensure:

- (1) That the requirements of this article are carried out;
- (2) That each educational program for children with disabilities administered within the state, including each program administered by any other state or local agency, but not including elementary schools and secondary schools for Native American children operated or funded by the Secretary of the Interior:
  - (a) Is under the general supervision of the persons responsible for educational programs for children with disabilities in the department; and
  - (b) Meets the educational standards of the state education agency, including the requirements of this article; and
- (3) In carrying out this article with respect to homeless children, the requirements of the McKinney-Vento Homeless Assistance Act, as amended to January 1, 2007, are met. (Reference- ARSD 24:05:20:18.)

**State monitoring--Quantifiable indicators and priority areas.**

The department shall monitor school districts using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:

- (1) Provision of Free Appropriate Public Education (FAPE) in the least restrictive environment;
  - (2) Department exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in this article and article 24:14; and
  - (3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification. (Reference-ARSD 24:05:20:18:02.)
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**State enforcement -- Determinations.**

On an annual basis, based on local district performance data, information obtained through monitoring visits, and other information available, the department shall determine whether each school district meets the requirements and purposes of Part B of the IDEA...

Based upon the information obtained through monitoring visits, and any other public information made available, Special Education Programs of the Office of Educational Services and Support determines if the agency, institution, or organization responsible for carrying out special education programs in the state:

- Meets the requirements and purposes of Part B of the Act;
- Needs assistance in implementing the requirements of Part B of the Act'
- Needs intervention in implementing the requirements of Part B of the Act; or
- Needs substantial intervention in implementing the requirements of Part B of the Act. (Reference- ARSD 24:05:20:23.04.)

**Deficiency correction procedures.**

Operations that are identified through monitoring as soon as possible, but not later than one year from written identification of the deficiency. The department shall order agencies to take corrective actions and to submit a plan for achieving and documenting full compliance. (Reference-ARSD 24:05:20:20.)

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## **1. FAPE IN THE LEAST RESTRICTIVE ENVIRONMENT**

**Present levels: Statement of present levels of academic achievement and functional performance that resulted in area of non-compliance from report of October 28, 2002.**

Issue requiring immediate attention

**ARSD 24:05:27:04 Determination of Related Services**

No present level of performance, goals and objectives were identified for counseling service on two student's IEPs. The monitoring team determined that the Menno Public School must reconvene the students IEP teams to determine if the related service is necessary for the child in order to implement the special education program recommended.

**Follow-up:** On-site January 8, 2009

**Finding:** In the review of student's files who are receiving related service(s), the related service(s) was addressed in the IEP present levels of academic and functional performance and annual goals and objectives.

**Corrective Action:** None

## **1. GENERAL SUPERVISION**

**Present levels: Statement of present levels of academic achievement and functional performance that resulted in area of non-compliance from report of October 28, 2002.**

**Prior Notice and Parent Consent ARSD 24:05:30:17**

State administration rules state that prior notice/parent consent must be acquired for initial evaluation and reevaluation. The Menno steering committee indicated that this was not consistently done. In interviews and file reviews the monitoring team verified

this as out of compliance. An example of this was a prior notice indicating that a hearing screening would be completed, which was not found in the file. Another example was that an adaptive behavior evaluation was completed for a child, but the prior notice did not indicate this would be completed.

**Follow-up:** On-site January 8, 2009

**Finding:** Prior Notice for Parent Consent for initial evaluations and reevaluations is being acquired and only the tests written on the Prior Notice are being given to students.

**Corrective Action:** None

## **2. GENERAL SUPERVISION**

**Present levels:** Statement of present levels of academic achievement and functional performance that resulted in area of non-compliance from report of October 28, 2002.

### **ARSD 24:05:27:13:02 Transition services**

Transition services are a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities. The coordinated set of activities shall be based on the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, the acquisition of daily living skills and functional vocational evaluation. In student IEPs where transition was addressed the IEP did not consistently provide information as to who would be responsible to carry out the activities/goals nor were dates given as to when activities would be initiated or completed. In one of three IEPs for transition aged students reviewed no present level of performance was written, which would provide the students individual performance level for the transition service. In addition an interview with the secondary special education teacher indicated transition services could be improved to meet students' unique needs.

**Follow-up:** On-site January 8, 2009

**Finding:** All transition age student IEPs are being written with the title of the person(s) responsible to carry out the activities/goals and the dates when the activities will be initiated and completed. In addition, all transition-age student IEPs present levels of academic and functional performance are being written with the inclusion of the student's transition levels of performance.

**Corrective Action:** None

### **3. GENERAL SUPERVISION**

**State Performance Plan - Indicator 3:** Participation and performance of children with disabilities on statewide assessments.

1. Percent of districts meeting State's AYP objectives for progress for disability subgroup.
2. Participation rate for children with IEPs in a regular assessment with not accommodations; regular assessment with accommodations; alternate assessment against grade level standards; alternate assessment against alternate achievement standards.
3. Proficiency rate for children with IEPs against grade level standards and alternate achievement standards.

#### **Finding:**

Through a review of 13 student files, data gathered by the review team indicated accommodations/modifications were consistently related to the student's skill areas affected by the disability and provided in the student's instructional program. Accommodations identified in the IEPs for State/District wide assessment also were consistently used during the assessment administration.

**Corrective Action:** None

### **4. GENERAL SUPERVISION**

**State Performance Plan – Indicator 16: Complaint Procedures**

#### **Findings: January 23, 2008**

Federal Regulation **§ 300.324 (a)(4)(ii)** states that if changes are made to the child's IEP in accordance with the regulations of developing, reviewing and revising the IEP, the public agency (the school district in this case) must ensure that the child's IEP Team is informed of those changes. **ARSD 24:05:27:08.01** states that in making changes to a student's IEP after the annual IEP meeting for a school year, the parent of a student with a disability and the school district may agree not to convene an IEP meeting for the purposes of making the changes, and instead may develop a written document to amend or modify the student's current IEP. If changes are made to the student's IEP in accordance with this section, the district shall ensure that the student's IEP team is informed of the changes.

Federal Regulation **§ 300.324 (a)(6)** and **ARSD 24:05:27:08:02** state that changes to the IEP may be made either by the entire IEP Team at an IEP meeting, or the parents and the district may agree to changes that will not require a meeting of the entire team. Either method of changes to the IEP requires a written document of those changes. The provision also allows for amendments to be made to the current IEP rather than redrafting the entire IEP document. Upon request, a parent shall be provided with a revised copy of the IEP with the amendments incorporated.

**ARSD 24:05:25:23**, further states that all decisions of the IEP team shall be made jointly by the parents and school personnel through the IEP process and specified on the child's IEP. An IEP must be in effect before special education and related services are provided to a child and must be implemented as soon as possible following a placement committee meeting.

The Menno District failed to hold an IEP Addendum Meeting requested by a student's parents per an October 1, 2007 written request. An IEP meeting was set for October 12<sup>th</sup>, 2007; however, the parent cancelled the meeting. The parent had decided to home school the student, due to significant health problems. On October 11, 2007, the parent filed a request with the Menno District's Board of Education to seek approval of the home schooling, which was approved. The complaint conclusion was the Menno District failed to reconvene when it was apparent the student was not involved in and progressing in the general curriculum and determine whether the student's placement was in the least restrictive environment.

**Corrective Action Required:** The student's IEP team had to reconvene and review the student's IEP to determine services for the student to be involved in and progress in the general curriculum and discuss appropriate placement options for the student to receive required services. In addition, the district was required to provide training to all administrators and Special Education teaching staff in the areas of reviewing and revising IEPs when students are not making expected progress, with special attention to children with health issues negatively impacting involvement and progress in the general curriculum.

The Menno District held an IEP meeting on October 25, 2007. The parent declined Special Education services for the child "at this time" and decided to continue with home schooling.

On February 26, 2008, an in-service was provided by two Special Education Program Education Specialists to all administrators and Special Education teaching staff. In addition, a University of South Dakota staff member held an in-service on April 9, 2008, with the entire Menno school staff that addressed sensitivity training in the area of student disabilities.

**Follow-up:** On-site January 8, 2009

**Finding:** Through review of two student files, the monitoring team determined Prior Notice for a Meeting was provided to the parents for an IEP revision, and they participated in the decision making process for documentation of the revision on an IEP Addendum.

**Corrective Action:** Completed